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HOUSE BILL 966

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO GAMING; PROHIBITING LOCATION OF A GAMING
ESTABLISHMENT WITHIN THREE HUNDRED YARDS OF AN INTERSECTION OF
MUNICIPAL ROADS IN A CLASS A COUNTY; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 16-6-15 NMSA 1978 (being Laws 1935,
Chapter 69, Section 3, as amended) is amended to read:

"16-6-15. ADDITIONAL POWERS.--In addition to the powers
which it may now have, the New Mexico state fair shall have
power to:

A. acquire, by purchase, gift or the exercise of
the right of eminent domain, and hold and dispose of real or
personal property or rights or interests therein except as
limited by Section 13-6-2.1 NMSA 1978, which provisions
requiring state board of finance approval of certain actions

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1 are applicable to the state fair. The right of eminent domain
2 shall be exercised in the same manner as is provided for the
3 exercise of such power by the state or any county, municipality
4 or school district;

5 B. build, construct, improve, repair or maintain
6 buildings, structures, improvements, grounds and equipment
7 ~~[which]~~ that may be required by or convenient for the purpose
8 of operating a state fair;

9 C. locate a gaming establishment adjacent to the
10 racetrack or in the facility in which seating for the racetrack
11 is located, provided that no gaming establishment is located
12 within three hundred yards of an external boundary of the state
13 fairgrounds;

14 D. acquire any project and to own, operate and
15 maintain such project;

16 E. accept grants of money, materials or property of
17 any kind from a federal agency upon such terms and conditions
18 as the federal agency may impose;

19 F. borrow money and issue bonds and provide for the
20 payment of the same and for the rights of the holders thereof,
21 provided that the commission shall not issue bonds, negotiate
22 loans or renegotiate loans without the prior approval of the
23 state board of finance; and

24 G. perform all acts and do all things necessary or
25 convenient to carry out the powers granted in ~~[this]~~ Chapter

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1 16, Article 6 NMSA 1978, or heretofore granted, to obtain loans
2 or grants or both from any federal agency and to accomplish the
3 purposes of [~~this~~] Chapter 16, Article 6 NMSA 1978 [~~and secure~~
4 ~~the benefits of the Recovery Act~~]."

5 Section 2. Section 60-2E-7 NMSA 1978 (being Laws 1997,
6 Chapter 190, Section 9, as amended) is amended to read:

7 "60-2E-7. BOARD'S POWERS AND DUTIES.--

8 A. The board shall implement the state's policy on
9 gaming consistent with the provisions of the Gaming Control
10 Act. It has the duty to fulfill all responsibilities assigned
11 to it pursuant to that act, and it has all authority necessary
12 to carry out those responsibilities. It may delegate authority
13 to the executive director, but it retains accountability. The
14 board is an adjunct agency.

15 B. The board shall:

16 (1) employ the executive director;

17 (2) make the final decision on issuance,
18 denial, suspension and revocation of all licenses pursuant to
19 and consistent with the provisions of the Gaming Control Act;
20 provided that the board shall not issue a license to a gaming
21 operator the gaming establishment of which is to be located
22 within three hundred yards of an external boundary of the state
23 land on which the race track is located in a municipality with
24 a population of greater than three hundred thousand according
25 to the 2000 federal decennial census;

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1 (3) develop, adopt and promulgate all
2 regulations necessary to implement and administer the
3 provisions of the Gaming Control Act;

4 (4) conduct itself, or employ a hearing
5 officer to conduct, all hearings required by the provisions of
6 the Gaming Control Act and other hearings it deems appropriate
7 to fulfill its responsibilities;

8 (5) meet at least once each month; and

9 (6) prepare and submit an annual report in
10 December of each year to the governor and the legislature,
11 covering activities of the board in the most recently completed
12 fiscal year, a summary of gaming activities in the state and
13 any recommended changes in or additions to the laws relating to
14 gaming in the state.

15 C. The board may:

16 (1) impose civil fines not to exceed twenty-
17 five thousand dollars (\$25,000) for the first violation and
18 fifty thousand dollars (\$50,000) for subsequent violations of
19 any prohibitory provision of the Gaming Control Act or any
20 prohibitory provision of a regulation adopted pursuant to that
21 act;

22 (2) conduct investigations;

23 (3) subpoena persons and documents to compel
24 access to or the production of documents and records, including
25 books and memoranda, in the custody or control of ~~any~~ a

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1 licensee;

2 (4) compel the appearance of employees of a
3 licensee or persons for the purpose of ascertaining compliance
4 with provisions of the Gaming Control Act or a regulation
5 adopted pursuant to its provisions;

6 (5) administer oaths and take depositions to
7 the same extent and subject to the same limitations as would
8 apply if the deposition were pursuant to discovery rules in a
9 civil action in the district court;

10 (6) sue and be sued subject to the limitations
11 of the Tort Claims Act;

12 (7) contract for the provision of goods and
13 services necessary to carry out its responsibilities;

14 (8) conduct audits, relevant to their gaming
15 activities, of applicants, licensees and persons affiliated
16 with licensees;

17 (9) inspect, examine, photocopy and audit all
18 documents and records of an applicant or licensee relevant to
19 his gaming activities in the presence of the applicant or
20 licensee or his agent;

21 (10) require verification of income and all
22 other matters pertinent to the gaming activities of an
23 applicant or licensee affecting the enforcement of any
24 provision of the Gaming Control Act;

25 (11) inspect all places where gaming

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1 activities are conducted and inspect all property connected
2 with gaming in those places;

3 (12) summarily seize, remove and impound from
4 places inspected any gaming devices, property connected with
5 gaming, documents or records for the purpose of examination or
6 inspection;

7 (13) inspect, examine, photocopy and audit
8 documents and records, relevant to his gaming activities, of
9 any affiliate of an applicant or licensee that the board knows
10 or reasonably suspects is involved in the financing, operation
11 or management of the applicant or licensee. The inspection,
12 examination, photocopying and audit shall be in the presence of
13 a representative of the affiliate or its agent when
14 practicable; and

15 (14) except for the powers specified in
16 Paragraphs (1) and (4) of this subsection, carry out all or
17 part of the foregoing powers and activities through the
18 executive director.

19 D. The board shall monitor all activity authorized
20 in an Indian gaming compact between the state and an Indian
21 nation, tribe or pueblo. The board shall appoint the state
22 gaming representative for the purposes of the compact."

23 Section 3. Section 60-2E-27 NMSA 1978 (being Laws 1997,
24 Chapter 190, Section 29, as amended) is amended to read:

25 "60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS

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1 FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF
2 OPERATIONS.--

3 A. A racetrack licensed by the state racing
4 commission pursuant to the Horse Racing Act to conduct live
5 horse races or simulcast races may be issued a gaming
6 operator's license to operate gaming machines on its premises
7 where live racing is conducted.

8 B. A racetrack's gaming operator's license shall
9 automatically become void if:

10 (1) the racetrack no longer holds an active
11 license to conduct pari-mutuel wagering; [~~or~~]

12 (2) the racetrack fails [~~to maintain a minimum~~
13 ~~of three live race days a week with at least nine live races on~~
14 ~~each race day during its licensed race meet in the 1997~~
15 ~~calendar year and~~] in the 1998 and subsequent calendar years,
16 to maintain a minimum of four live race days a week with at
17 least nine live races on each race day during its licensed race
18 meet; or

19 (3) the location of the gaming establishment
20 in a municipality with a population of greater than three
21 hundred thousand according to the 2000 federal decennial census
22 is moved to a location within three hundred yards of an
23 external boundary of the state land on which the gaming
24 establishment is located.

25 C. A gaming operator licensee that is a racetrack

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1 may have up to six hundred licensed gaming machines, but the
2 number of gaming machines to be located on the licensee's
3 premises shall be specified in the gaming operator's license.

4 D. By execution of an allocation agreement, signed
5 by both the allocating racetrack and the racetrack to whom the
6 allocation is made, a gaming operator licensee that is a
7 racetrack may allocate any number of its authorized gaming
8 machines to another gaming operator licensee that is a
9 racetrack. To be valid, the allocation agreement must bear the
10 written approval of the board and the state racing commission,
11 and this approval shall make specific reference to the meeting
12 at which the action of approval was taken and the number of
13 votes cast both for and against the approval. By allocating a
14 number of its authorized machines to another racetrack, the
15 allocating racetrack automatically surrenders all rights to
16 operate the number of machines allocated. No racetrack shall
17 operate or be authorized to operate more than seven hundred
18 fifty gaming machines.

19 E. Gaming machines on a racetrack gaming operator
20 licensee's premises may be played only on days when the
21 racetrack is either conducting live horse races or simulcasting
22 horse race meets. A gaming operator licensee that is a
23 racetrack shall be permitted to conduct such games on only the
24 aforementioned days for a daily period not to exceed twelve
25 hours at the discretion of such licensee.

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1 F. Alcoholic beverages shall not be sold, served,
2 delivered or consumed in the area restricted pursuant to
3 Subsection F of Section 60-2E-26 NMSA 1978."

4 Section 4. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

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